

# Tax Alert

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## *The Tax Relief Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Act)*

*December 2010*

**The Act was signed into law on December 17, 2010 and contains a number of income, estate and gift tax provisions. We want to make you aware of the following details of the Act:**

### Individual Tax Rates

The current tax rates for individuals continue through 2012 with the top rate of 35%.

### Capital Gains/Dividends

The qualified dividend and capital gains rate of 15% will also continue through 2012. Any net capital gain which otherwise would be taxed at a 10 or 15% rate is taxed at a zero rate and is also extended through 2012.

### Individual Charitable Contribution Incentives

Allowance for tax-free transfers from individual retirement plans to a charitable organization is extended through 2011 for those taxpayers age 70 ½ or older. The transfer will be considered in calculating the required minimum distribution.

### Itemized Deductions and Personal Exemptions

The itemized deduction phase-out and the personal exemption phase-out have been eliminated through 2012.

### Payroll Tax Reduction

For 2011 only, the Act reduces the rate for the Social Security portion of payroll taxes to 10.4%, by reducing the employee rate from 6.2% to 4.2% (the employer's portion remains at 6.2%). The self-employment tax rate is also 10.4%.

### Education Provisions

Employer provided educational assistance, the student loan interest deduction and Coverdell Education savings account provisions are extended through 2012. The American Opportunity Tax Credit is also extended through 2012.

### Alternative Minimum Tax (AMT) "Patch"

The Act includes an AMT patch for 2010 and 2011. For 2010, the AMT exemption amounts are \$47,450 for unmarried individuals and \$72,450 for married individuals filing jointly. For 2011, the amounts will be \$48,450 and \$74,450 respectively. The Act also extends through 2011 the ability to use nonrefundable personal credits to offset AMT.

### Bonus Depreciation and Section 179 Expensing.

The Act allows taxpayers to deduct 100% of the cost of new business property acquired and placed in service after September 8, 2010. The 50% first year bonus depreciation is extended to qualified property placed in service after December 31, 2011 and before January 1, 2013. The Act also sets the expensing limitation under IRC Section 179 at \$125,000 and the phase-out threshold amount at \$500,000 for 2012.

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## Estate Tax

The Act retroactively reinstates the estate tax, with a maximum estate tax rate of 35% and estate tax exemption of \$5 million (adjusted for inflation after 2011). For estates of decedents dying in 2010, an election will be available for the estate to follow either the reinstated estate tax or the previous provision that exempted estates from taxation and required the modified carryover basis. Estates of decedents dying in 2010 will be given an extension of time to file an estate tax return until nine months after the date of enactment of the Act. The Act also restores the unified credit against gift tax for gifts made after 2010. The gift tax exemption amount remains at \$1 million for 2010 but increases to \$5 million as part of the estate tax exemption. The Act includes a provision allowing the surviving spouse to increase the \$5 million exemption by the unused exclusion amount of the deceased spouse. The increased exclusion is available by the surviving spouse to be applied against transfers during life or at death.

## Extension of Expired Provisions

- The increased standard deduction for married taxpayers filing jointly, scheduled to expire after 2010, will continue through 2012.
- The size of the 15% regular income tax bracket for a married couple filing a joint return is twice the 15% tax bracket for a single return. This is extended through 2012.
- The \$1,000 child tax credit will continue to be allowed against the individual's regular tax and AMT through 2012, instead of reverting to \$500. Its refundability is also extended.
- Certain provisions relating to the earned income credit will continue through 2012.
- The \$3,000 amount for the child and dependent care credit, which was scheduled to revert to \$2,400 after 2010, will continue for two years.
- The temporary 100% exclusion of gain from the sale of certain small business stock is extended through 2011.

## Tax Credits

- Non-Business Energy Property Credit for energy property to include windows, skylights and doors that meet the Energy Star standards are qualified improvements. The credit is available through 2011.
- Research and Development Credit extended through 2011 for payments paid or incurred after December 31, 2009.
- Alternative fuel credit is extended for 2010 and 2011. Fuel tax paid on propane for forklifts used off road may be eligible for the credit.
- Work Opportunity Credit is extended for four months. The provision is effective for individuals who begin work for an employer through December 31, 2011.

## Deductions

- \$250 deduction for elementary and secondary school teachers.
- Mortgage insurance premiums deductible as residence interest continues through December 31, 2011
- State and local sales tax deduction in lieu of state and local income tax is extended through 2011.
- 15-year straight-line cost recovery for qualified leasehold improvements, qualified retail improvements and for qualified restaurant improvements is extended through 2011.
- Above the line deduction for tuition and related expenses for higher education is extended through 2011.

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